

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Rodney Lail, aka Keith Lail, aka Rodney)	
Keith Lail, <i>et al.</i> ,)	
)	
)	Civil Action No.: 3:11-0977-TLW-TER
Plaintiffs,)	
v.)	
)	
The United States of America, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

ORDER

On April 25, 2011, the Plaintiffs filed this civil action alleging violations of the First, Fourth, Eight and Fourteenth Amendments of the United States Constitution, as well as violations of 42 U.S.C. §§ 1981, 1983, 1985, 1988, and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), as well as claims under the Federal Tort Claims Act, the South Carolina Tort Claims Act, and South Carolina common law. (Doc. # 1).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, to whom this case had previously been assigned. In the Report, the Magistrate Judge recommends granting the following three pending motions: (1) the Motion to Dismiss, (Doc. # 33), filed by Defendants United States of America, Federal Bureau of Investigation (FBI), Paul Gardner, David M. Hardy, Kerry Haynes, Noel Harold, Thomas Isabella, Jr., Michael Kirkpatrick, Thomas Marsh, Monte Dell McKee, George Skaluba, Chris Swecker, Matthew Perry, John Benson, and Phil Celestini (collectively, “Federal Defendants”); (2) the Motion to Dismiss, (Doc. # 34), filed by Defendants State of South Carolina, David Caldwell, Larry Gainey, Michael Prodan, and Mark Keel; and (3)

the Motion for Judgment on the Pleadings, (Doc. # 60), filed by Defendant South Carolina Law Enforcement Division (SLED). (Doc. # 64). Plaintiff James B. Spencer filed timely objections. (Doc. # 69). In conducting its review, the Court therefore applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and Plaintiff Spencer's objections. After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report. (Doc. # 64). The Motion to Dismiss filed by Defendants United States of America, Federal Bureau of Investigation (FBI), Paul Gardner, David M. Hardy, Kerry Haynes, Noel Harold, Thomas Isabella, Jr., Michael Kirkpatrick, Thomas Marsh, Monte Dell McKee, George Skaluba, Chris Swecker, Matthew Perry, John Benson, and Phil Celestini (collectively, "Federal Defendants") is **GRANTED**. (Doc. # 33). The Motion to Dismiss filed by Defendants State of South Carolina, David Caldwell, Larry Gainey, Michael Prodan, and Mark Keel is **GRANTED**. (Doc. # 34). The Motion for Judgment on the Pleadings filed by Defendant South Carolina Law Enforcement Division (SLED) is likewise **GRANTED**. (Doc. # 60). These Defendants are hereby dismissed from this action.

IT IS SO ORDERED.

August 30, 2012
Florence, South Carolina

s/Terry L. Wooten
United States District Judge